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Mailed:

In re application of
Dennis C. Clemes et al.

Serial No. 09/848,255

Filed: May 04, 2001

For: SULFUR DIOXIDE GENERATOR

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: DECISION ON
: PETITION

: SEP 29 2005

This is a response to the PETITION TO WITHDRAW NOTICE OF ABANDONMENT filed on July 21, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 14, 2005, for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85) due to insufficient funds within the deposit account be withdrawn. The request asks that the abandonment be withdrawn because sufficient funds were available.

BACKGROUND

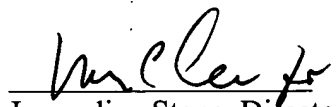
- August 04, 2004: A NOTICE OF ALLOWANCE AND FEE(S) DUE (PTOL-85) was mailed indicating that an Issue fee of \$1330 and Publication fee of \$300 are due by November 04, 2004.
- September 20, 2004: Applicants filed PART B - FEE(S) TRANSMITTAL (PTOL-85B) with authorization to charge the total required fees of \$965 to deposit account number 22-0185 (the difference in fees being due to applicant claiming small entity status on PTOL-85).
- September 21, 2004: The Publication Fee of \$300 was charged to CBLH Deposit Account No. 22-0185.
- June 14, 2004: Notice of Abandonment for failure to timely pay the required issue fee within the statutory period of three months from the mailing of the Notice of Allowance was mailed.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181(no fee) - no abandonment-in-fact. A review of the evidence presented by the applicant and review of the USPTO applicant file reveals applicants' request has merit. Applicants properly replied to the Notice of Allowance mailed August 04, 2004 and a review of the Deposit Account Statement for Deposit Account 22-0185 indicates sufficient funds were available for payment of the Issue Fee of \$665 on September 20, 2004 and on September 21, 2004 when the Publication Fee was charged. Therefore, the Issue Fee should have been charged to Deposit Account 22-0185 and accordingly, any holding of abandonment for failure to timely pay the Issue Fee is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the technical support staff for processing of the issue fee payment submitted September 20, 2004 and forwarding to Patent Publications for processing.

The Petition is **GRANTED.**


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